

Serial No. 10/748,578
Attorney Docket No. 2001P06859WOUS

REMARKS

Applicants have amended claims 1, 6, 9, 12, and 15, canceled claims 16-18, and added claims 19-20. Thus, claims 1-15, and 19-20 are currently pending and presented for examination. Applicants respectfully request reconsideration and allowance of the pending claims in view of the foregoing amendments and the following remarks. An RCE is filed herewith in connection with the final office action. Applicants also file herewith a certified copy of the priority document.

Response to objections to the Claims:

The claims 4, 12, and 15 stand objected to due to informalities. Applicants have amended claim 12 so that the claim 12 is not a duplicate of claim 4. Additionally, applicants have amended claim 15 to be consistent with its parent claim. Thus, Applicants respectfully request the Examiner to withdraw the objection to the claims.

Response to rejections under Sections 102:

Claim 1-3, 6-8, 11, 14-16 and 18 stand rejected under 35 U.S.C. 102(b), the Examiner contending that these claims are anticipated by Astle et al (USPN 6,396,816).

Applicants' have amended independent claims 1 and 6 to recite that **a broadband connection for the broadband request is not established until after the called subscriber has answered in the event that the called subscriber is unavailable** (pg. 4, lines 2-6). In contrast, Astle discloses that **if there is not enough available bandwidth to provide the requested bandwidth ...the device allocates a minimum amount of bandwidth**. Establishing the broadband connection after the called subscriber has answered is not one of mere design choice but is done in order to not waste bandwidth, among other reasons, if the called subscriber does not answer.

In view of the above, independent claims 1 and 6 are patentable. Dependent claims 2-3, 7-8, and 11 are also patentable at least based on their dependency from claims 1 and 6, as well as based on their own merit. Therefore, Applicants respectfully request that the Examiner withdraw the 102 rejections.

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Response to rejections under Sections 103:

Claims 4-5, 9-10, 12-13 stand rejected under 35 U.S.C. 103(a), the Examiner contending that these claims are obvious over Astle et al (USPN 6,396,816) in view of Saari et al (USPN 6,338,046) and further view of Smyth et al (USPN 6,347,224).

Applicants amended independent claim 9 to recite charging the subscriber requesting the high priority broadband connection during setup up of the high priority broadband connection and before the high priority broadband connection has been established. In contrast, Smyth initiates a charge rate during call setup, the call rate used for the duration of the call, but does not charge during call setup. Those skilled in the art would understand that a charge rate is commonly initiated during setup of a resource, e.g. the high priority connection, but only charged through the duration of the call wherein the duration of the call is a time from a call has been answered and after the connection for resource being charged for has been established. However, by charging during setup of the connection the calling subscriber is charged before the resource being charged has been established. Charging during setup is an important difference since it provides a longer time duration to charge for the high priority broadband connection than just during duration of the call.

In view of the above, independent claims 9 is patentable. Dependent claim 10 is also patentable at least based on its dependency from claim 9, as well as based its their own merit. Therefore, Applicants respectfully request that the Examiner withdraw the 103 rejections.

New Claims 19-20:

New claims further define the scope of the invention, as described in the specification and drawings. In view of the foregoing remarks regarding the other claims, Applicants respectfully submit claims 19-20 as patentable and request allowance of claims 19-20.

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Conclusion

For the foregoing reasons, it is respectfully submitted that the objections and rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, Applicants respectfully requests that the Examiner reconsider the objections and rejections and timely pass the application to allowance. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

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Respectfully submitted,

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